

**PLANNING COMMISSION  
WORKSHOP MEETING MINUTES**

**March 24, 2010**

**4:00 P.M.**

**CALL TO ORDER:** Workshop meeting was called to order at 4:00 p.m.

**ATTENDANCE:**

**Members Present:** Susan Baldwin, Steve Barker, Jan Frantz, John Godfrey, Preston Hicks, Bill Morris, Chip Spranger, and John Stetler

**Members Excused:** Ed Scheinfeldt

**Staff Present:** Jill Steele, Asst. City Attorney; Christine Hilton, Planning Supervisor; Glenn Perian, Senior Planner; and Leona Parrish, Planning Admin. Assistant.

**PUBLIC COMMENTS:**

Mr. Jim Kerner, 56 Dunning Avenue, Battle Creek, MI 49037-2046, was present to speak. Stated he has a large lot with a split driveway, with a small accessory building that he would like to tear down and build a larger 30'x 40' accessory building with 10 ft. side walls to store and old "61 Chevy", and also have space for a wood working shop. Noted in order to build the larger building he would need a variance as it is larger than the 1,000 sq. ft. that is currently allowed. Mr. Kerner said he is retired and wants to be able to enjoy himself with having a larger garage for his hobbies only. Said because he also has a shared driveway, he would like to see the guidelines of what is allowed. Noted he would like to build it as he get the money; one-year at a time until finished as he would be doing the work himself and that it would cost him approximately \$17,000 dollars to build with \$20,000 for the concrete foundation and new driveway. He said he wanted to build it with the same roof pitch has his home (10/12 pitch) so it matched in appearance. Mr. Kerner asked the Planning Commission to take his request into consideration.

**PLANNING COMMISSION DISCUSSION ON ACCESSORY BUILDINGS:**

Ms. Christine Hilton, Planning Supervisor stated prior to this workshop she had emailed a PDF document of the survey results to the Planning Commissioners of the Accessory Building Survey that they had taken. Stated she would like to base their discussion today on the results and would like to start the discussion with item #4 on the survey because questions 1-3 are wild-card questions regarding size. Stated she would like to briefly discuss how the current ordinance is regulated; review the questions and answers on the survey results and have a brief discussion to see if the Planning Commission feels it would need an ordinance amendment.

Commissioner Hicks stated following from the agenda items.

**A.) Location of a building, and what the board wanted to approve:**

Ms. Hilton stated that question #4 deals with the location of accessory buildings and that the current ordinance does not limit the location other than it needing to be 60 ft. from the right-of-way. Noted that in most locations it is addressed except where some locations where lots are larger and potentially could be placed in the front-yard. Results of the survey show that 87.5 % feel it should be in rear-yard only which would be between the rear building line of the main structure and rear property line and would require an ordinance amendment. Noted that staff is in support of this ordinance amendment.

Commissioner Stetler asked how it pertained to detached garages and if it was considered an accessory building; which would mean an accessory garage could not be put in-line with end of the home and would need to be in the rear yard. Ms. Hilton stated that was correct.

Commissioner Stetler stated he did not feel they understood this when it was discussed, as he would think that a garage which have garage doors and is to be used to house cars could be in line with the side of the residential structure. That an accessory building is for some other use then for cars and that a garage could be in-line with the home.

Commissioner Frantz asked if this had been a past practice; that garages are considered to be accessory buildings and would not be a new change. Commissioner Stetler stated he had not, until it was defined as such.

Ms. Christine Hilton stated any building that is not attached to the main residential structure is an accessory building. Commissioner Stetler asked what makes a garage attached. Ms. Hilton stated anything that attaches it to the principle structure is attached.

Ms. Jill Steele read Chapter 1230.06(28) the definition of "garage" (private); *private garage means an accessory building not exceeding 1,000 sq. ft. that houses vehicles or property that are for the private use of the occupants of the lot on which the private garage is located.*

Commissioner Stetler said as long as it could be attached by a breezeway etc., he would not object to them being in the rear yard.

Commissioner Barker stated the statutory construction that determines a garage is an accessory building by definition, so if he has a home and wants to construct a garage (according to the statute now) it would have to be located in the rear of the property. He does not feel that would be necessary and is an undue restriction provided the setbacks, size, etc. are all met with regard to requiring the accessory building i.e. the garage being attached to the main structure. Said they may want to make a distinction between an accessory building and garages as it seems to him that a garage is a different animal than just a general accessory building that they had spoken of in the past.

Commissioner Godfrey stated in the older neighborhoods most of the homes had only detached garages and some have been joined by a breezeway with a shed in the backyard. He had always assumed that the home, breezeway and garage were one-unit and then allow for an accessory building in the back yard. Stated he agrees they need to define a garage separate from an accessory building.

Commissioner Hicks stated he can see someone building an accessory building and later it becoming a garage; so its use can change very easily as their needs change. Stated they could be treading into an area that they cannot control. Noted the space is a space if it fits into the yard, if they have a garage it is an accessory building no matter where they put it by definition.

Ms. Jill Steele stated if it is apart of the plans for the building of the house, it would not be considered an accessory building. Stated a garage is also defined as an accessory building in Chapter 1293.02 (c).

Mr. Glenn Perian said that under "Accessory Buildings & Uses in Residential Districts, Chapter 1296.01" states accessory buildings that are apart of main building shall conform to all height and yard



requirements of the main building. Said he feels there needs to be a distinction between attached garages and detached accessory buildings.

Commissioner Spranger stated what will become of homes that are on a corner lot and the only place to build would be in a side-yard; will they be told they cannot build, as accessory buildings would not be allowed in a side-lot.

Ms. Hilton stated because they live on a corner lot; by definition they have two front-yards, only one interior side-yard and a rear yard.

Commissioner Frantz stated there are many older homes that have garages in their side-yard and if they would want to replace it, they would then have to put it in the rear-yard and seems to be a burden for the property owner with an unanticipated outcome. Ms. Hilton stated they could restrict it from being just in the front-yard and allow them to be only in the side and rear yard if the Planning Commission were to be more comfortable with that option.

Mayor Baldwin stated she would like to see some examples drawn on paper and believe it would help everyone to have a visual of what would be allowed. Mayor provided a drawing showing a new construction of a residential home with an attached garage; her question is would this be allowed.

Commissioner Hicks stated it is noted that attached front, side, and rear to this point is acceptable. He asked the commissioners; how much do they feel they will be able to capture in terms of covering everything and how effective will they be in dealing with most circumstances presented to them. He is leaning towards; they can deal with most of them, but will have outliers and this is what they would be having Special Use Permit conversations about, or are they hoping to capture every scenario that they can possibly come up with today.

Mayor Baldwin asked Ms. Hilton what had been City of Coldwater's past practices regarding accessory buildings. Ms. Hilton stated she believes you can have the ordinance be quite specific and keep in mind there are 20,000 properties in the City of Battle Creek and you will not be able to draft an ordinance that encompasses everything and make sure when you draft an ordinance that you try to avoid any unintended consequences. Stated any property that would vary from the ordinance would come through as a variance to the Zoning Board of Appeals and not be a Special Use Permit and are intended to be quite restrictive based on property conditions, unusual circumstances dealing with the property etc. Ms. Hilton thinks you can get by with a one paragraph ordinance or a five page ordinance; it all depends on what the Planning Commission want to have.

Mayor Baldwin stated the Zoning Board of Appeals asked that they review this ordinance and asked how many properties had there been; said they might be asking that the current ordinance just be reviewed and that there might not be any major changes required.

Commissioner Barker noted at the last Planning Commission meeting the Planning Department had put together a detailed report with a series of recommendations he thought was very reasonable and thought the only issue left from the last meeting was the definition of a garage, as it seems they had not realized a garage was an accessory building. Said in viewing the statue it did not seem there was much needed to be done and was convinced of this as it was stated in the report there had only been ten (10) requests in the past five-years; in the last six-years have had (13) requests, (7) approved and (6) denied showing an

average of (2) per year and granting (1) variance per year. Stated he believes there does not seem to be a major problem and that we currently have a statute that works and any variance requests that might come before them be addressed as needed.

Commissioner Stetler stated the Zoning Board of Appeals have had very few variance requests because they are so liberal in what is allowed; that the ZBA indicated in their request to the Planning Commission that they review Accessory Buildings based on lot size so that larger parcels of land could have larger buildings and smaller parcels have smaller buildings; in addition they did not want a detached garage in the front of a house. Commissioner Stetler stated in response to the Mayor's question; he did not believe that attached garages are considered an accessory building. Ms. Christine Hilton and Ms. Jill Steele stated that was correct.

Commissioner Hicks stated getting back to the agenda; they were discussing location of accessory buildings and also accessory buildings vs. garages. He asked if front attached, side attached and rear attached, detached rear and detached on side were acceptable.

Commissioner Godfrey asked Ms. Steele if we had a definition for a garage. Ms. Steele stated as before that there is a distinction between "garage private" and "garage public"; a garage "private" *Chapter 1230.06(28) means accessory building not exceeding over 1,000 sq. ft.* Mayor Godfrey states it does not say what a garage is or what it is intended to store. Ms. Steele states that in *Chapter 1293.02 (c) "garage means an accessory building or portion of a main building designed or used for the storage of motor vehicles or property mentioned in this chapter owned and used by the occupants of the main building and shall be located on the same lot as the main building and shall be naturally and normally incidental to the dominant use of the premises"*.

Ms. Hilton stated for the sake of this conversation anything attached to the main house, we should assume is the main house and focus on the detached structures that will be incidental to the main house and where they should be located. Staff can then work on the definitions.

Mayor asked what if someone wanted to put a structure along side but not have it attached; would this be permissible. It was stated according to the current ordinance it would be allowed and would need to be 10 ft. from the main structure because of building and fire codes.

Commissioner Stetler stated he believes that an unattached structure should be in the rear-yard only and not have a separate building in the front of the home.

Commissioner Godfrey stated he believes there needs to be a better definition of a garage and then concentrate on accessory buildings other than a garage; and he would be in favor of saying they should be in the rear yard, with the exception of those defined as a garage.

Commissioner Spranger asked if a garage on the side-yard needed to be attached.

Commissioner Frantz stated they are suggesting that a garage could be in the side-yard detached if it is a garage; but any other out-buildings or accessory buildings would have to be in the rear-yard. So the building defined as a garage could be in the side and not the front-yard.



Commissioner Spranger asked if a six-car garage would then be acceptable in the side-yard if the lot supported it with the setbacks. Mayor stated that was a valid question and asked if this what the city would want; where the garage that is parallel to the residence be wider than the home.

Commissioner Godfrey asked what if the home has 800 ft. exposure on the front.

It was noted what the current ordinance allows regarding an accessory building required to be at least 60 ft. from the front property line and at least 10 ft. from any other structure. Explained that if a residential structure is placed to the rear of the lot and then wished to put an accessory building in front of that structure 60 ft. from their front property line, they would be allowed by current ordinance; this is an example what Commissioner Stetler does not want to see, which is an accessory building in the front of a residential home.

Commissioner Godfrey stated there are examples of this in the old Lakeview Avenue, where the majority of the homes sit close to the sidewalk and then others have the home sitting to the rear of their lot with their entire lawn in the front. Stated once they define a garage, he would be in support of all other accessory buildings to be in the back-yard.

Commissioner Barker stated he is in agreement with Commissioner Godfrey and that the distinction seems to be the lack of the definition of a garage vs. accessory building. Stated they do not want to see accessory buildings in front-yards, but no harm in having an unattached garage adjacent to the existing structure, with a statue to define garages from accessory buildings.

Mayor asked how we want to define what a garage is used for and can it be for cars, boats, RV's, workshop etc.

Commissioner Frantz stated if we were to restrict the definition of a garage to be for a use no other than storage of the homeowners vehicles, with an additional square footage for brooms and rakes etc.; it would keep the large accessory building from being considered a garage.

Commissioner Morris noted the lake properties on Country Club Lane, where garages are built in front of the homes and cannot be put next to the homes; is this considered the back-yard where the driveway is located. If this is the case they would need to address those as well as lake-front properties that have two front-yards.

Commissioner Spranger asked what solution are they going to have; he gave an example of a property where the neighbor complained that a car should not be parked in an accessory building on the property. Feels they are trying to make micro changes and that with the current ordinance there had only been (2) variance requests in any single given year.

Commissioner Hicks stated they are discussing universal possibilities and dealing with some scenarios and some they will not be able to deal with, but need to be responsible in dealing with those scenarios that are before them. Stated they now need the definition of a garage and are comfortable with having accessory buildings in the rear of the homes.

**Planning Commission all agree that "accessory buildings" should be located in the rear of the property only.**

**B.) Ms. Hilton read the report from the survey results summary regarding Height:**

Mayor Baldwin asked if a "Class A" motor home would fit into a 12 ft. door opening which is permissible in a maximum height of 14 ft. structure. Ms. Hilton stated yes.

Commissioner Morris asked for the clarification of the 14 ft. height limitation as being the mid-point of the roof peak. Ms. Hilton stated that was correct.

Commissioner Godfrey stated he would support, as there may be variances submitted based upon the size of the property, structure etc. and that as an overall guidance for the citizens and not get too regulatory, that the existing ordinance would be acceptable to him.

Commissioner Barker and Morris stated they concur with Commissioner Godfrey.

**Planning Commissioners all agreed that the current ordinance regarding the limit of height of an accessory building is acceptable as remaining the same height of 14 ft., which is measured at the midpoint between the eaves and peak, and that in addition should be limited to the height of the main structure.**

**C.) Limiting the number of accessory buildings allowed:**

Ms. Hilton stated when discussing accessory buildings it also includes detach garages, pole barns, pool sheds, play houses, and small accessory buildings. Noted the current ordinance does not limit the number of 1,000 sq. ft. buildings allowed on a parcel as long as the setbacks are met and 50% rear-yard coverage requirement for that particular zoning district. The question is should the city limit the number of buildings allowed on a parcel and if allowed more than one accessory building should the overall amount allowed be limited to the 1,000 sq. ft. maximum per parcel. The results of the survey showed that 75% feel there should have no limit on a parcel, also 62.5 % stated that the total # of buildings should be limited to the 1,000 sq. ft. size restriction; noted staff is in support of this also.

Mayor Baldwin stated she disagrees; for example she has a 4 acre parcel with several out-buildings, one each for the sprinklers, dogs, porch structure, etc. and if she wanted to build a structure to house things like ATV's, campers, RV's, etc. it would be restricted to the 1,000 sq. ft.. Stated she thinks that property owners with larger lots should be provided options for allowing them to have more than a 1,000 sq. ft. accessory building. Ms. Christine Hilton stated that was a valid question and the Planning Department would review based on having a percentage and very per lot size.

Commissioner Stetler stated he would prefer to see one larger accessory building than seeing two or more 1,000 sq. ft. accessory buildings in a row.

Commissioner Frantz stated referencing the document of what the other communities that limit the accessory buildings; noted she is also in favor of not exceeding the ground floor level of square footage of the home, and to limit it to allowing only two buildings not exceeding the 1,000 sq. ft. with an option of seeking a variance.

Commissioner Morris was in agreement with Mayor Baldwin and think they need to take into consideration the size of the lot, put a limit of three and meet the criteria of percentage of lot coverage not to exceed 50% of the lot.



Commissioner Hicks asked by raise of hands how many want to limit the number of accessory buildings allowed; three raised their hands. Ms. Hilton asked regarding accessory buildings if it also included detached garages or just an accessory building. (It was noted detached garages are not included.)

Commissioner Barker stated he feels there is no need to limit the number of accessory buildings as it would be determined by the square footage of lot size and setbacks; therefore see no need to have a specific number of buildings.

Commissioner Frantz asked if someone put their garden shed next to their house that looks attached, is it considered to be an accessory building. Ms. Hilton stated it is not allowed, that building and zoning code states it needs to be 10 ft. from their house; if it is less than 200 sq. ft. it does not require a building permit.

**Planning Commissioners all agreed there was no need to limit the number of accessory buildings as the limit would be determined by the lot size.**

**D.) Limit the types of utilities allowed for an accessory building:**

Ms. Hilton stated there was some conversation whether utilities should or should not be allowed to accessory structures with the intent of possibly prohibiting illegal businesses from accessory structures. Stated home occupations are allowed on residential properties and illegal businesses are not allowed and they try to regulate those under typical zoning code. One of the questions on the survey was dedicated to should utilities be allowed: 75% of responses indicate water should be allowed; 100% indicate electric and/or gas should be allowed; and 62.5% indicate sanitary sewer should be allowed.

It was noted that permits that are applied and/or approved for the utilities would regulate what is allowed and would need to be in compliance with the building code.

**Planning Commissioners all agreed there should not be any restriction regarding the types of utilities permitted for accessory buildings.**

**E.) Need for Design Regulations:**

Ms. Hilton stated there was suggestions there should maybe have some design regulations inserted into the possible ordinance amendment regarding the color of accessory buildings, appearance regulations, and building material regulations. It was noted on the survey response that 87.5% feel none of these should be regulated; which staff also supports as they seem to be overly restrictive.

Commissioner Frantz mentioned the Form Based Zoning as having restrictions for certain areas, and asked how it might relate and if it dealt with look vs. usage and thought we should keep it in mind. Stated for example the appearance of the streetscape would be of more emphasis as opposed to the zoning district use.

Ms. Hilton stated Form Based Codes are based more with form and function of an area over use; that use is a secondary factor in how things are governed and that form and function are primary. Stated Battle Creek currently does not have any and have looked into it in the past and the Transitional Business District was one where they possibly could have a Form Based Codes in that area.

Mayor stated she believed it allowed mixed use instead of zoning as long as it looked nice and that a neighborhood covenant can be more restrictive. Ms. Hilton stated, yes that was correct.

Commissioner Stetler stated if it were a Planned Unit Development (PUD), Form Based Codes would not apply.

Ms. Steele stated if it is something that you generally want to allow, it should be dealt with in the ordinance and not require a variance; because a variance should be rarely granted.

**Planning Commissioners all agreed there should not be any design restrictions regarding accessory buildings.**

**F.) Limit the size of accessory buildings:**

Ms. Hilton stated the survey addressed the size on questions # 1, 2, & 3 and the current ordinance addresses size by limiting it to 1,000 sq. ft., not to exceed 50% of the rear yard of the parcel of which it would be placed and noted each zoning district have different lot coverage requirements. Stated they have determined that a detached garage would be separate from an accessory structure, and now it will be challenging to deal with size.

Ms. Hilton read the comments on the survey report regarding limiting the size of accessory buildings; #1) stated 62.5% on the survey said no we do not want to limit the size; #2) noted the different sizes of structures on various size parcels; and Question #3) asked if accessory buildings be limited to not more than the ground floor area of the main residential structure on the parcel. Noted comments on these responses were added to the last page of the survey.

Commissioner Godfrey stated he contacted Ms. Hilton as he thought this section to be confusing and noted that it would be helpful to make a better decision if they had examples of size of lots per neighborhood in the city and what size accessory buildings should be allowed for those neighborhoods.

Commissioner Stetler thought this was a complex question and suggested it be broken-out and looked at it in pieces to get some concurrence and not try to do it all at once. Example: what do we want the size to vary with (house); (yard); (total square footage); yes or no.

Commissioner Hicks stated he believes that the size of the house and lot may both be included in the same equation and have them both influence what is allowed in terms of an accessory building. Commissioner Hicks asked Ms. Hilton how the size allowed was determined in other areas. Ms. Hilton stated it was across the board of how those were factored in.

Commissioner Frantz asked if we could address them one at a time to see how they stack up and eliminate those they do not want to be in the equation.

Commissioner Stetler stated they could start with the lot size, as you can have a small house on a 10 acre parcel on Stone Jug Rd. they would want a large pole building to accommodate the land. He does not believe it would be good criteria, because it is more a function of the size of land as to how they appear and how badly it is needed.



Commissioner Frantz asked if the question was to be; are they going to consider the size of the house or a percentage to be one of their criteria? Commissioner Hicks stated he would say no, based on information, the size of the house is not relevant.

Mayor Baldwin wanted to talk about a couple of questions regarding the size of the lot. Stated regarding the quality of life in smaller lot areas like in the Post Addition, they need to at least allow for a one-car garage and take into consideration their lot size. Ms. Hilton stated there are a few property owners that have built 900 sq. ft. accessory buildings in their rear yard and they did fit, just for comparison purposes.

Commissioner Barker stated he agrees with the rule that states accessory buildings cannot occupy more than 50% of the rear yard and 25-30% (based on zoning) of total coverage of the entire lot of all buildings as being acceptable regardless of the lot size with the number of accessory buildings as not being a factor.

Commissioner Frantz stated the 50% rule of rear-yard coverage and 25-30% rule for total lot coverage seems to work for everyone, but the 1,000 sq. ft. of accessory building size is different and would like to decide that separately.

Commissioner Stetler stated in response to the Mayor's question; there are a lot of people who have 33 x 132 ft. lots and think they should look at some type of minimum for them. If they have a joint garage that is 12 x 20 ft., where are the bicycles going to be stored. Mr. Perian stated they should still be able to put a shed in the rear yard.

Commissioner Hicks asked regarding the 1,000 sq. ft. limit of accessory building allowed and if the commission would like to see it increased.

Commissioner Spranger stated he would like to see it increased for those having 2-acres or more.

Commissioner Godfrey stated there are a lot of parcels to the south and southwest of town that the limit of 1,000 sq. ft. is ridiculous.

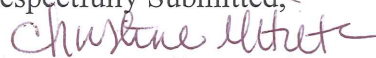
Commissioner Frantz stated the 1,000 sq. ft. minimum is too restrictive and is in favor of the percentage of the lot (both the entire and rear lot). She does not support the restriction of 1,000 sq. ft.

Commissioner Godfrey stated he assumed we would get a staff report and then review it at the next Planning Commission meeting.

Mayor Baldwin stated in order to make a better decision she strongly recommend they be given diagrams showing examples of lots to view and compare.

**ADJOURNMENT:** Workshop meeting was adjourned at 5:35 p.m.

Respectfully Submitted,

  
Christine M. Hilton, AICP  
Executive Secretary  
Planning Department